

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-CR-29

**DOMINIQUE ROLLINS,
OTIS HUNTER,
KELLY SCOTT,
DESHAWN EVANS, and
ANTHONY LINDSEY,**

Defendants.

**REPORT AND RECOMMENDATION
ON PARTIES' JOINT MOTION TO ADJOURN TRIAL (ECF No. 76)**

On September 16, 2017, defendants Otis Hunter and Deshawn Evans filed a joint motion to adjourn trial. ECF No. 76. This motion is unopposed by the United States and other defendants. *Id.* On September 18, 2017, District Judge J.P. Stadtmueller referred the motion to this Court. Text Only Order dated September 18, 2017.

On July 20, 2017, Judge Stadtmueller entered an amended trial scheduling order setting the jury trial for October 23, 2017. ECF No. 64. On August 18, 2017, this Court granted Mr. Hunter's pro se motion to appoint new counsel. ECF No. 68. On August 29, 2017, Mr. Hunter's new attorney entered his appearance. ECF No. 69. Mr. Hunter's attorney obtained discovery on or about September 5, 2017. ECF No. 76. This case has voluminous discovery and Mr. Hunter's counsel needs additional

time to effectively review the materials and prepare. Additionally, counsel for Mr. Hunter and Mr. Evans have conflicts with a trial date of October 23, 2017, due to other scheduled trials. *See* ECF No. 76.

On September 25, 2017, this Court held a hearing on the pending motion with all counsel. ECF No. 78. The Court cannot modify a district court's scheduling order, *see United States v. Pacific Gas & Elec. Co.*, Case No. 14-cr-00175-THE, 2016 WL 3001160, at *4 (N.D. Cal. May 25, 2016); accordingly, the Court issues this report and recommendation on the joint motion to adjourn trial.

The interests of justice require that defendants are afforded an adequate opportunity to prepare for trial. Because Mr. Hunter's counsel requires additional time to prepare, and because there are multiple scheduling conflicts in place, the Court recommends that the district court amend the scheduling order.

At the hearing, the parties proposed the following dates, pending the availability of the district court:

1. December 1, 2017, for Mr. Hunter's pretrial motions deadline;
2. December 12, 2017, for the government's response to any pretrial motions filed by Mr. Hunter;
3. December 18, 2017, for Mr. Hunter's reply;
4. January 16, 2018 for the plea deadline;
5. January 18, 2018, for the final pretrial report;
6. January 23, 2018, for the final pretrial conference; and
7. January 29, 2018 for trial.

The parties confirmed availability on the above listed dates and are all in agreement with the proposed schedule. Accordingly, in light of the foregoing, I recommend that the district court grant the joint motion to adjourn, ECF No. 76, and amend the scheduling order to adopt the dates as described herein. Further, I recommend that the district court exclude the period of delay resulting from the granting of this continuance pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h).

NOW, THEREFORE, IT IS HEREBY RECOMMENDED that the joint motion to adjourn, ECF No. 76, be **GRANTED**.

IT IS FURTHER RECOMMENDED that the district court exclude the period of delay pursuant to 18 U.S.C. § 3161(h).

Your attention is directed to 28 U.S.C. § 636(b)(1)(B) and (C), Fed. R. Crim. P. 59(b), and E.D. Wis. Gen. L. R. 72(c), whereby written objections to any recommendation herein, or part thereof, may be filed within fourteen days of service of this Recommendation or prior to the Final Pretrial Conference, whichever is earlier. Objections are to be filed in accordance with the Eastern District of Wisconsin's electronic case filing procedures. Failure to file a timely objection with the district judge shall result in a waiver of your right to appeal. If no response or reply will be filed, please notify the Court in writing.

Dated at Milwaukee, Wisconsin, this 26th day of September, 2017.

BY THE COURT:

s/ David E. Jones
DAVID E. JONES
United States Magistrate Judge